

Slaughter Requests New Designation for WHTI

Move Would Require DHS to Conduct a Full Cost-Benefit Analysis Before Implementing New Cross-Border ID Requirements

Washington, DC - Rep. Louise M. Slaughter (D-Fairport), Ranking Member of the House Rules Committee, has invoked a Presidential Executive Order as part of her efforts to require the Department of Homeland Security (DHS) to fully study the economic consequences of the Western Hemisphere Travel Initiative (WHTI). Using the Bush Administration's own testimony about WHTI, Rep. Slaughter sent a letter Friday to the Office of Management and Budget asking that the agency designate WHTI to be a "significant regulatory action." The designation would force DHS to conduct a full cost-benefit analysis of the plan before moving forward with its implementation.

"DHS continues to downplay the significant economic damages that its WHTI proposal will mean for border communities and the tourist industry," Rep. Slaughter said.

"For months, my requests that DHS seriously examine the economic ramifications of this proposal have fallen on deaf ears." Hopefully, by employing this Executive Order, we will finally get the economic analysis needed and deserved by border communities."

Executive Order 12866 requires a federal agency to consider a proposed rule to be a

"significant regulatory action" if it will impact a sector of the economy by at least \$100 million. The Department of State has already testified that WHTI will cause travelers to spend over \$100 million to acquire necessary travel documents, making a cost-benefit analysis mandatory under the order.

The complete text of Rep. Slaughter's letter can be found below.

February 3, 2006

The Honorable Joshua Bolten

Director

Office of Management and Budget

725 17th Street, NW

Washington, DC 20503

Dear Director Bolten,

We are writing to request that OMB's Office of Information and Regulatory Affairs (OIRA) designate the Western Hemisphere Travel Initiative (WHTI) -- published jointly by the Departments of Homeland Security and State as an Advanced Notice of Proposed Rulemaking (ANPRM) on September 1, 2005 -- a significant regulatory action. As such, OIRA should require that DHS complete a cost-benefit analysis of WHTI before the agency publishes a formal Notice of Proposed Rulemaking (NPRM) in the Federal Register.

As you know, Executive Order (E.O.) 12866 requires the federal government to "create a regulatory system....that improves the performance of the economy without imposing unacceptable or unreasonable costs on societies." To meet these goals, Section 3(f)(1) of E.O. 12866 mandates that a federal agency designate a proposed rule as a significant regulatory action if that rule may:

"Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

Section 6 of E.O. 12866 clearly spells out that federal rules designated a significant regulatory action must undergo a thorough cost-benefit analysis prior to being printed in the Federal Register as a NPRM.

We understand that the Department of Homeland Security is currently reviewing comments from the ANPRM and will publish a NPRM on WHTI in the next year. However, evidence suggests that it will be difficult to avoid constructing the WHTI rule without dramatically affecting cross-border trade and commerce by more than \$100 million per year.

The State Department has indicated that implementation of WHTI will cost cross-border travelers above and beyond the \$100 million threshold. The State Department's Deputy Assistant Secretary for State, Frank Moss, testified in front of the House Homeland Security Committee about WHTI on June 22, 2005. In his testimony, Mr. Moss suggested that the demand for passports due to WHTI will increase from 12 million in Fiscal Year 2006 to 17 million in Fiscal Year 2008. Assuming that the cost of an adult passport remains at \$97, cross-border travelers alone will be spending \$485 million over three years due to the WHTI requirements.

WHTI also threatens to severely impact the travel and tourism industry. For example, the Canadian Tourism Commission has estimated that WHTI, as proposed in the ANPRM, would result in a cumulative loss of 3.5 million outbound trips by Canadians to the U.S. This would mean a direct loss of receipts to the U.S. tourism industry of \$667 million over four years. What's more, U.S. and Canadian tourism officials have stated that the WHTI proposal is already having a chilling effect on cross-border travel.

For WHTI to be implemented effectively, it is imperative that OIRA designate the proposed rule a significant regulatory action and require DHS to conduct a thorough cost-benefit analysis. We appreciate your attention into this matter, and await your prompt response.

Sincerely,

Louise Slaughter

Member of Congress

Bart Stupak

Member of Congress

BACKGROUND

The Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 will require all individuals to present a passport or comparable documentation when entering the United States from Canada. This requirement, referred to as the Western Hemisphere Travel Initiative (WHTI), is set to go into effect on January 1, 2008. Rep. Slaughter supports the intent of WHTI, but remains convinced that the Administration's current proposal will unnecessarily deter legitimate trade and travel.

Rep. Slaughter has played a leading role in working to improve the passport plan. Last June, the Government Accountability Office agreed to her request to study the economic ramifications of the passport proposal, as well as to examine alternative documents that will satisfy the IRTPA mandate, including the NEXUS card and enhanced drivers' licenses. The GAO should have their initial results sent to Rep. Slaughter by May 9, 2006

Rep. Slaughter was also the only Member of Congress to testify in front of the House Small Business Committee's October hearing on the Western Hemisphere Travel Initiative. Her testimony focused on the negative consequences that a passport proposal will have on Western New York, and offered five suggestions to improve DHS' current plan.

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cc. The Honorable Michael Chertoff, Secretary of Homeland Security

cc. The Honorable Condoleezza Rice, Secretary of State